

Appl. No. 09/841,965
Response to Non-Compliant Appeal Brief

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IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

MAY 30 2006

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On: 30 May 2006

By: 

Valerie Watkins

Appl. No. : 09/841,965
Applicant(s) : Markus BAUMEISTER et al.
Filed : 25 April 2001
TC/A.U. : 2132
Examiner : Samson B. LEMMA
Atty. Docket : DE-000071

Title: METHOD OF DYNAMIC DETERMINATION OF
ACCESS RIGHTS

RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF

U.S. Patent and Trademark Office
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the "Notice of Non-Compliant Appeal Brief" (the "Notice") dated 4 May 2006 and attached hereto, supplemental to the Appeal Brief filed on 17 August 2005 and in support of the Notice of Appeal filed on 19 July 2005, Applicants hereby submit this Supplemental Appeal Brief including the attached two totally blank Appendices entitled "Evidence Appendix" and "Related Proceedings Appendix."

The undersigned attorney notes that 37 C.F.R. § 41.37 only requires "an appendix containing copies of any evidence submitted," and "an appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii)," and further notes that the section headings in 37 C.F.R. § 41.37 are only recommended headings ("the brief shall contain the following items under appropriate headings"). Therefore, the undersigned attorney also respectfully submits that a totally blank line is a completely appropriate heading

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for a totally blank appendix, and therefore the Appeal Brief as filed was compliant with 37 C.F.R. § 41.37. However, in order to advance early consideration of Applicants' Appeal Brief and without admitting any deficiency therein, Applicants attach hereto two totally blank sheets of paper labeled respectively, "Evidence Appendix" and "Related Proceedings Appendix."

If necessary, the Commissioner is hereby authorized in this, concurrent, and future filings to charge payment or credit any overpayment to Deposit Account No. 50-0238 for any additional fees required under 37 C.F.R. § 1.16, 37 C.F.R. § 1.17, or 37 C.F.R. § 41.20, particularly extension of time fees.

Respectfully submitted,

VOLENTINE FRANCOS & WHITT, P.L.L.C.

Date: 30 May 2006By: 

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Atty. Docket No. DE-000071

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Supplemental Appeal Brief

Evidence Appendix

{None}

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Supplemental Appeal Brief

Related Proceedings Appendix

{None}

Atty. Docket No. DE-000071

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VOLENTINE FRANCOS WHITT

#3723 P.005



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,965	04/25/2001	Markus Braumeister	DE000071	6068
24737	7590	05/04/2006	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			LEMMMA, SAMSON B	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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#3723 P.006

APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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04272006

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The Appeal Brief filed on August 17, 2005 by the appellants is missing some sections. Please refer to the Notification of Non-Compliant Appeal Brief form (37 CFR 41.37) that is attached.


GILBERTO BARRÓN JR.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

09/841,965

BAUMEISTER ET AL.

Examiner

Art Unit

Samson B. Lemma

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--The Appeal Brief filed on 17 August 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

It is found necessary that the appellants submit a supplemental Appeal Brief in compliance with the new rules set forth in 37 CFR § 41.37(C) for the following reasons:

The Appeal Brief reveals that the following sections are missing:

(1) "Evidence Appendix," as set forth in 37 CFR § 41.37(c)(1)(ix).

(2) "Related Proceedings Appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

A supplemental Appeal brief that is in compliance with 37 CFR § 41.37(c) is therefore required. For more information on the Board's new rules see the web page entitled "More Information on the Rules of Practice Before the BPAI, Final Rule" at <http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>.